

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO'S COMPREHENSIVE ZONING ORDINANCE NO. 00-11-01; GRANTING A SPECIFIC USE PERMIT FOR THE OPERATION OF A PRIVATE CLUB IN CONJUNCTION WITH THE OPERATION OF A RESTAURANT LOCATED ON A TRACT OF LAND SITUATED IN THE JABEZ DEGMAN SURVEY, ABSTRACT NO. 279, IN THE CITY OF FRISCO, COLLIN COUNTY, TEXAS, CONTAINING 7,883 SQUARE FEET MORE OR LESS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE AND COMPREHENSIVE ZONING ORDINANCE NO. 00-11-01; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas (the "City Council"), has investigated and determined that Comprehensive Zoning Ordinance No. 00-11-01 should be amended and pursuant to a notice being duly posted according to law, conducted a public hearing wherein a request was made by Buca Di Beppo, Inc. ("Applicant"), to allow a Specific Use Permit for a Private Club in conjunction with the operation of a restaurant on a tract of land zoned Planned Development-25. The tract of land is situated in the Jabez Degman Survey, Abstract No. 279, in the City of Frisco, Collin County, Texas ("Frisco"), containing 7,883 square feet more or less, and being particularly described in Exhibit "A", attached hereto and incorporated herein for all purposes; and

WHEREAS, the City Council finds that Applicant has agreed to comply with all provisions of the ordinances of Frisco, including but not limited to Frisco's Comprehensive Zoning Ordinance No. 00-11-01 and any amendments thereto, and has further agreed to comply with the additional restrictions set forth herein and the attached site plan (Exhibit "B"); and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to grant the Specific Use Permit, and that such grant will not be detrimental to the public welfare, safety or health, and that the Specific Use Permit should be granted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Specific Use Permit Granted. Applicant is granted a Specific Use Permit to allow the operation of a Private Club in conjunction with the operation of a restaurant on a tract of land zoned Planned Development-25. The tract of land is situated in the Jabez Degman Survey, Abstract No. 279, in the City of Frisco, Collin County, Texas, containing 7,883 square feet more or less and being particularly described in Exhibit "A", attached hereto and incorporated herein for all purposes (the "Property"). The Property shall be developed in compliance with the conditions expressly stated in the site plan attached hereto as Exhibit "B", and incorporated herein for all purposes as set forth verbatim.

SECTION 3 Failure to Comply/Assignable and Transferable. Except as otherwise stated above, all terms of the Specific Use Permit shall be complied with prior to issuance of a certificate of occupancy. Failure to comply with any term or condition of this Ordinance, or Frisco's Comprehensive Zoning Ordinance No. 00-11-01, as it exists or may be amended, will result in the Specific Use Permit being declared null and void and of no force and effect. The Specific Use Permit is issued to the entity named above and is assignable and transferable.

SECTION 4: Specific Use Permits Regulations. Upon holding a properly notified public hearing, the City Council may amend, change, or rescind a specific use permit if:

1. There is a violation of any of the provisions of this ordinance or any ordinance of the City of Frisco that occurs on the Property;
2. The building, premise, or land used under a Specific Use Permit are enlarged, modified, structurally altered, or otherwise significantly changed unless a separate Specific Use Permit is granted for such enlargement, modification, structural alteration, or change;
3. Violation of any provision of the terms or conditions of this Specific Use Permit;
4. Ad valorem taxes on the Property are delinquent by more than six (6) months; or
5. The Specific Use Permit was obtained by fraud or deception.

SECTION 5 Specific Use Permit Effective Date. This Specific Use Permit shall be effective from and after the effective date of this Ordinance.

SECTION 6 Unlawful Use of Premises. It shall be unlawful for any person, firm or corporation to make use of the above-referenced tract of land in some manner other than as authorized by this Ordinance or other applicable Ordinances.

SECTION 7: Penalty. Any person, firm or corporation who violates any provision of this Ordinance or Frisco's Comprehensive Zoning Ordinance No. 00-11-01, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this

Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 8: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 9: Conflicting Ordinance. All ordinances in conflict herewith are repealed to the extent they are in conflict. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 10: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this ____ day of _____ 2000.

KATHLEEN A. SEEI, Mayor

ATTESTED AND CORRECTLY
RECORDED:

APPROVED AS TO FORM:

NAN PARKER, City Secretary

ABERNATHY, ROEDER, BOYD & JOPLIN, P.C.
RICHARD M. ABERNATHY
City Attorney

DATE OF PUBLICATION: _____, FRISCO ENTERPRISE